

EPC COMMISSION MINUTES & AGENDA

MONTH March

YEAR 1987

ADM-1-1-1
March 1987

MINUTES
ENVIRONMENTAL PROTECTION COMMISSION
Wallace State Office Building
Des Moines, Iowa
March 16, 1987

MEMBERS PRESENT

Robert Schlutz, Nancy Lee Siebenmann, Gary Priebe, Charlotte Mohr,
Wayne Gieselman, Keith Uhl, Donna Hammitt, Clark Yeager, Linda Appelgate,
Richard Timmerman.

MEMBERS ABSENT

Catherine Dunn

ADOPTION OF AGENDA

The following items were added to the agenda:

Item No. 11, Address Items for Next Meeting.
Item No. 12, Report of Low Level Radioactive Compact Meeting (Larry Wilson)
Informational.
Item No. 13, Discussion of John Deere Company Letter Regarding a Waste
Management Proposal.

Motion was made by Richard Timmerman to approve the agenda as amended.
Seconded by Charlotte Mohr. Motion carried unanimously.

ADOPTION OF MINUTES

Motion was made by Linda Appelgate to approve the minutes of February 17, 1987
as presented. Seconded by Donna Hammitt. Motion carried unanimously.

REGIONAL OFFICE 2 LEASE

Mark Slattery, Administrative Services Division, presented the following item.

The Department requests approval to renew the office lease for Regional
Office #2 in Mason City, Iowa for the period of December 1, 1986 to
November 30, 1987.

Rental cost would be \$575 per month as in the past.

Richard Timmerman inquired as to whether there was any effort being made to
combine regional offices since reorganization of the department.

Mark Slattery replied that it is being investigated but may be another year or
so before implementation as it is still being studied.

Motion was made by Charlotte Mohr to approve renewal of the Regional Office 2
lease at a cost of \$575 per month. Seconded by Nancy Lee Siebenmann. Motion
carried unanimously.

AIR MONITORING EQUIPMENT UPGRADING

Mark Slattery, Administrative Services Division, presented the following item.

The Department requests approval to purchase the equipment and services listed below. The purchases are to be made in order to replace 11 outdated SO₂ monitors and five outdated particulate monitors as part of the Department's effort to maintain the quality of the existing statewide air monitoring network. The federal government will pay for 100 percent of the cost and is committed to maintaining the quality of the network.

Equipment To Be Purchased

<u>Cost</u>	<u>Description</u>
\$10,000	Refurbishing 10 Outdated SO ₂ Monitors
9,000	Purchase 1 New SO ₂ Monitor
9,300	Purchase 4 Electronic Data Loggers and Modems
11,000	Purchase 5 Fine Particulate (PM-10) Monitoring Heads
8,100	Operation/Installation Costs
<u>\$47,400</u>	

Motion was made by Richard Timmerman to approve the purchase of air monitoring equipment for upgrading, at a cost of \$47,400, to be paid for with federal supplemental funds. Seconded by Charlotte Mohr. Motion carried unanimously.

MONTHLY REPORTS

Darrell McAllister, Bureau Chief, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Iowa Department of Natural Resources

Environmental Protection Commission

RULEMAKING STATUS REPORT

March 1, 1987

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 6 - Declaratory Rulings	1/20/87	2/11/87		--				
2. Ch. 22, 23 PSD	11/12/86	12/03/86	1/06/87	12/23/86 12/30/86 1/06/87	2/17/87	2/17/87	3/11/87	4/15/87
3. Ch. 64 - Design Standards (12, 14, 16, 18C)	2/17/87	3/11/87		4/01/87 4/03/87 4/06/87				
4. Ch. 65 - Feedlots	11/12/86	12/03/86	1/06/87	12/23/86 12/30/86 1/05/87				
5. Ch. 100, 103 - Landfill Groundwater Monitoring	3/16/87	*4/08/87		4/27/87 4/28/87 4/29/87				
6. Ch. 135 - Underground Tank Monitoring	12/15/86	1/14/87	2/10/87	2/03/87 2/05/87 2/10/87				

*Projected

MONTHLY VARIANCE REPORT

02/20/87

Facility	Program	Engineer	Subject	Decision	Date
1 Shambaugh, City of	Wastewater Const.	Midland Engr.	Minimum Sewer Size	approved	02/19/87
2 Shambaugh, City of	Wastewater Const.	Midland Engr.	Cleanouts	approved	02/10/87
3 West Union, City of	Wastewater Const.	TeKippe Engr.	Clarifier Depth	denied	02/17/87
4 Lanesi Mun. Utilities	Wastewater Const.	Veenstra & Kien	Number of Aerated Cells	approved	02/20/87
5 Mayland, City of	Wastewater Const.	Kirkham, Michael	Number of Aerated Cells	approved	02/20/87
6 Snap-on-Tools-Algonz	Wastewater Oper.		Monitoring Freq.	approved	02/12/87
7 Clear Lake, City of	Watersupply Const.	Zenk, Read, et al.	Siting Criteria	approved	02/20/87
8 Rathbun North Shore Co	Watersupply Const.	Garden Associate	Siting Criteria	approved	02/20/87

REPORTS OF HAZARDOUS CONDITIONS

During the period of February 1, 1987 through February 28, 1987, reports of 41 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
2/6/87 SCOTT	A one-inch crack in a storage tank at 3035 W. 73rd Street in Davenport, Iowa allowed about 6,000 gallons of mineral spirits to leak into a concrete dike on February 5, 1987.	Safety-Kleen 777 Big Timber Road Elgin, IL 60120	The leak was plugged and the remaining product in the tank was pumped to another tank. The spilled material was recovered and placed in an adjacent tank.
2/8/87 SIOUX	A plastic spigot on a storage tank located one-half mile south of Hawarden, Iowa was vandalized on February 7, 1987, and about 200 gallons of diesel fuel leaked onto surrounding soil.	L.G. Everlist, Inc. P.O. Box 829 Sioux Falls, SD 57117	A 100 x 150-foot area of soil was excavated to a depth of two feet. The soil was applied on land and turned for several days to facilitate volatilization. The excavated soil was replaced with clay, and an earthen dike will be constructed around the tank.

Numbers in Parentheses Represent Reports For The Same Period in Fiscal Year 1986

Month	Total # of Incidents Reported	Substance Type			Mode					
		Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	79	45	0	34	53	0	18	2	0	6
Nov	24	12	3	9	17	0	5	1	0	1
Dec	43	36	1	6	24	1	14	1	0	3
Jan	46	32	3	13	37	0	9	0	1	1
Feb	41 (30)	25 (17) UST - 10	1 (2)	15 (11)	30 (17) UST - 10	1 (0)	5 (6)	1 (2)	2 (1)	2 (4)

Total # of Incidents Per										
Field Office	1	2	3	4	5	6				
This Period	5	4	3	6	16	7				

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Rancho Valley Sub-division Montpelier (1)	Drinking Water	Failure to monitor bacteria	Order/Penalty	2/4/87
Obies' Hurtsville Tap Maquoketa (1)	Drinking Water	Failure to monitor bacteria	Order/Penalty	2/4/87
Livingcod's Landing Lansing (1)	Drinking Water	Failure to monitor bacteria	Order/Penalty	2/4/87
Blake Grove Retreat Center, Ackley (2)	Drinking Water	Failure to monitor bacteria	Order/Penalty	2/4/87
Page Co. Pig, Inc. Council Bluffs (4)	Wastewater	Prohibited Discharges	Order/Penalty	2/11/87
Mrs. E.J. Triplett & Bishop Engr. Co, Inc. (5)	Construction w/o Permit	Construction without permit	Order/Penalty	2/11/87
IBP, inc. Sioux City (6)	Wastewater	Effluent violations, monitoring & reporting, poor operation	Order/Penalty	2/11/87
LT Tap Lawler (1)	Drinking Water	Failure to monitor bacteria Public Notice	Order/Penalty	2/11/87
G. Hank Mayer, Wayne Vogel, & Dennis Greiner (6)	Flood Plain	Failure to obtain approval	Order	2/16/87
Deere&Co., John Deere Foundry/Waterloo (6)	Wastewater	Effluent violations	Order	2/3/87

MPN:rla/CIG061K01.01

EE: Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
City of Mt. Pleasant (6)	Wastewater	Failure to submit a plan of action	Order	2/19/87
Cargill, Inc. Eddyville (5)	Air Quality	Other violations	Order/Penalty	2/19/87
Western Engineering Harlan (4)	Air Quality	Permit violations	Order	2/19/87
Walter Groeneweg Rock Valley (3)	Flood Plain	Failure to obtain approval	Order/Penalty	2/24/87
City of Braddyville (4)	Wastewater	Monitoring & reporting	Order	2/24/87
Warner Livestock, Inc. & Edward Warner Albia (6)	Wastewater	Prohibited discharge	Order	2/24/87
City of Garner (2)	Wastewater	Effluent violations	Order	2/24/87
Silver Crest Golf Country Club, Inc. Decorah (1)	Drinking water	Failure to monitor - nitrates	Order/Penalty	2/24/87
Shelter Shield Buffalo Center (6)	Air Quality	Construction w/o permit emission violations	AG Referral	2/20/87
K&K Truckstop Lenox (4)	Drinking Water	Failure to pay penalty	AG Referral	2/20/87
Lawrence Payne Ottumwa (6)	Solid Waste	Open dumping	AG Referral	2/20/87
Country Corner Cafe Pacific Junction (4)	Wastewater	Prohibited discharge	AG Referral	2/20/87
Cedar Hills Apts.	Drinking water	Numerous	AG Referral	2/20/87
Bozarth & Bell Davenport (6)	Solid Waste	Open dumping	AG Referral	2/20/87

Summary of Administrative Penalties

The following administrative penalties are due:

<u>NAME/LOCATION</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
*Otter Creek Station (Zwingle)	\$ 189	5-09-86
*New Shack Tavern (Cedar Rapids)	230	5-13-86
*Shelter Shield (Buffalo Center)	1,000	12-03-86
*Lawrence Payne (Ottumwa)	700	12-05-86
*Country Corner Cafe (Pacific Junction)	400	12-21-86
*Cedar Hills Apartments (Dubuque)	1,000	12-29-86
*K & K Truckstop (Lenox)	212	12-29-86
Indian Creek Country Club (Nevada)	162	1-02-87
Chico's Supper Club (Burr Oak)	863	2-10-87
1st Pleasant View Subdivision (Clairon)	224	3-06-87
Redwood Resort (Ruthven)	289	3-07-87
OK Lounge (Marion)	448	3-29-87
City of Dysart	400	3-13-87
Shady Oaks Golf Course (Ackworth)	212	4-04-87
Ken Turner (Ft. Madison)	1,000	4-06-87
Grandview Corners (Grandview)	112	4-07-87
Rancho Valley Subdivision (Montpelier)	424	4-07-87
Blake Grove Retreat (Ackley)	124	4-07-87
Obies Hurstville Tap (Maquoketa)	212	4-15-87
IBP, Inc. (Columbus Junction)	1,000	4-15-87
Lakewood Sanitary District	1,000	4-19-87
Clinton Drive-In Theater	162	4-19-87
Cargill, Inc. (Eddyville)	1,000	4-22-87
Silvercrest Golf & Country (Decorah)	215	---
Walter Groeneweg (Rock Valley)	750	---
Page County Pig, Inc. (Page County)	500	---

* Referred to the Attorney General

The following administrative penalties have been appealed:

<u>NAME/LOCATION</u>	<u>AMOUNT</u>
Iowa Power and Light (Council Bluffs)	\$1,000
*Finlan Landfill (Chickasaw County)	1,000
Besch/Ralston (Fort Dodge)	500
Kula and Boge (Martelle)	1,000
McConnell; Yoder Feed (Ottumwa)	1,000
Handi-Klasp, Inc. (Webster City)	1,000
NW States Cement (Mason City)	1,000
Mahaska County SLF	600
City of Kellogg	1,000

The following administrative penalties were paid in February:

<u>NAME/LOCATION</u>	<u>AMOUNT</u>
ROLScreen Company (Pella)	\$1,000
Meadow Mist Motel (Delwein)	112
Bishop Engineering/Triplett (Ankeny)	100
Iowa Public Service (Sioux City)	450

The Woodland Pork payment in January was returned due to insufficient funds.

* Referred to the Attorney General

Contested Cases
March 2, 1987

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10-26-83 1-20-85	Frit Industries	Administrative Order Hazardous Waste Registry	HW	Landa	Settlement close.
9-14-84	Belmond, et. al.	Administrative Order	HC	Landa	Proposed decision 11-4-85; appealed.
10-17-85	City of Bevington	Administrative Order	WW	Hansen	Hearing continued.
10-23-85	Farmers Coop. Elevator Company	Permit Condition	WW	Hansen	Motion to dismiss, 2-27-87.
1-23-86	Delvein Soil Service	Administrative Order	WW	Landa	Hearing set for 3-25-87.
3-07-86	Iowa Power and Light	Administrative Order	Air	Landa	Consent order proposed 2-24-87.
3-21-86	Besch and Ralston	Administrative Order	SW	Landa	Settlement close; Removal begun.
6-12-86	ADM - Clinton	Administrative Order	Air	Landa	Hearing continued.
7-30-86	IBP - Columbus Junction	NPDES Permit	WW	Hansen	Hearing held 1-14-86; briefs to be filed.
9-10-86	Farmer's Mutual Coop	Administrative Order	WW/SW	Landa	Negotiating before filing.
9-10-86	Kula and Boge	Administrative Order	SW	Landa	Negotiating before filing. Removal started.
10/22/86	Yoder Feeds, Inc. et.al	Administrative Order	WW/SW	Kennedy	Hearing held 12-16-86; briefs filed.
10/27/86	Union County/Wittstock	Permit Issuance	FP	Clark	Remanded by District Court.
10/28/86	Lamoni Municipal Utilities	Administrative Order	WW	Hansen	Negotiating before setting hearing.
10/29/86	Hend-Klapp Company, Inc.	Administrative Order	AQ/WW SW	Landa	Hearing set for 3-12-87.
11/03/86	Mahaska Co. SLF	Administrative Order	SW	Kennedy	Hearing set for 3-24-87.
11/14/86	Gale Conrad	Permit Condition	FP	Clark	Hearing set for 3-30-87.
11/18/86	Northwestern States	Administrative Order	WW	Landa	Hearing continued.
12-03-86	City of Mukoo	Administrative Order	WS	Hansen	Hearing continued.
12/11/86	Eloise Reese	Permit Condition	FP	Clark	Hearing set for 3-11-87.
12/12/86	Bertch Wood Specialties	Permit Denial	AQ	Landa	Settled.
12/16/86	Fawn Engineering Corp.	Permit Denial	SW	Landa	Settled.
12/24/86	Francis Heberlin	Administrative Order	FP	Clark	Hearing set for 3-23-87.
12/30/86	Agripro Seeds	Permit Denial	AQ	Landa	Hearing set for 3-26-87.
2/ /87	Aspro, Inc.	Administrative Order	AQ	Landa	Hearing set for 4-17-87.
2/18/87	City of Kellogg	Administrative Order	WW	Murphy	Negotiating before filing.

Members of the department will be present to expand upon these reports and answer questions.

Discussion followed regarding various items in the reports. Keith Uhl inquired about the quantity of effluent at IBP, Columbus Junction and also at Tri-County Feeder Pig Association.

Mr. McAllister explained the difference between the two facilities' violations.

Mr. Uhl requested that staff bring a history of previous violations at Tri-County Feeder Pig, IBP-Columbus Junction, and the City of Des Moines showing water quality standards violations, various contamination levels, and the number of gallons of waste going into the stream at IBP.

Mr. McAllister stated that there is a compliance report the Department keeps, in conjunction with EPA, showing compliance status of facilities in Iowa. He further explained the procedure in using this list to bring a request for referral against a facility. The Commission agreed that this report would be adequate to cover the information requested by Mr. Uhl.

ECONOMIC IMPACT STATEMENT ON REVISION OF CHAPTER 65 -- ANIMAL FEEDING OPERATIONS RULES

Darrell McAllister, Bureau Chief, Environmental Protection Division, presented the following item.

The Department requests approval to file the attached Economic Impact Statement for publication in the Iowa Administrative Bulletin.

On January 6, 1987, the Administrative Rules Review Committee requested an economic impact statement be prepared on the amendments being proposed to the Department's Chapter 65 Animal Feeding Operations rules.

Iowa Code Section 17A.4(1)(c) requires that, upon request of the Administrative Rules Review Committee, the Department must publish in the Iowa Administrative Bulletin an estimate of the economic impacts of a proposed rule on persons affected by the rule and on the Department. This section also requires this estimate be published at least 15 days in advance of the adoption of the rule.

In accordance with these requirements, the attached Economic Impact Statement has been prepared on the proposed revisions to the Chapter 65 rules. Assuming this statement is filed by March 20, publication will occur on April 8. Due to the requirement that the statement be published at least 15 days in advance of adoption of the rule, final action to adopt the rule amendments will not be possible until the May Commission meeting.

ECONOMIC IMPACT STATEMENT
FOR
AMENDMENT OF CHAPTER 65 RULES

Prepared By
Environmental Protection Division
Iowa Department of Natural Resources
February 25, 1987

- I. INTRODUCTION: On January 6, 1987, the Administrative Rules Review Committee requested an economic impact statement be prepared on ARC 7189, a Notice of Intended Action proposing amendments to the Department of Natural Resources (DNR) Chapter 65 "Animal Feeding Operations" rules. The Notice of Intended Action appeared in Iowa Administrative Bulletin Volume IX, Number 12, dated December 3, 1986.

The Chapter 65 rules establish state water pollution control requirements for animal feeding operations. Regulation of water pollution from livestock operations first began in 1969, when rules were adopted covering certain open feedlots. In 1972, these rules were amended by adding pollution control requirements for confinement feeding operations. A major revision of the rules occurred in 1976. The changes made at that time incorporated the requirements of US EPA rules, established minimum waste control requirements for various types of livestock operations, and adopted land disposal guidelines. Except for minor changes made by the Department in 1984 and the voiding of one rule section in 1986 through legislative action, the Chapter 65 rules now in effect are those adopted in 1976.

In ARC 7189, the DNR is proposing to amend the existing Chapter 65 rules, rather than adopt new rules where none previously existed. Therefore, the economic impact estimates given in this report represent only the differential costs/benefits projected to occur as a result of adopting ARC 7189. As required in Chapter 17A, 1986 Code of Iowa, economic impact estimates are presented for both affected livestock operations and for the DNR.

The general procedures followed in preparing this report were:

- All proposed rule amendments were first evaluated to determine their potential economic impacts. This evaluation indicated the amendments could be divided into the following three general categories:
 - * Amendments which, individually or collectively, have a significant economic impact on animal feeding operations and/or the DNR;
 - * Amendments which, individually or collectively, give the appearance of having a significant economic impact but in fact do not have such impact; and
 - * Amendments which do not have a significant economic impact and do not appear to have an economic impact -- includes amendments which simplify and clarify current requirements, update rules to reflect current state and federal laws, etc.

- These evaluation results were used to determine which amendments would be covered in the economic impact statement. All amendments having a significant economic impact were included, as were those not having an economic impact but giving the appearance of doing so. However, amendments which neither have an economic impact nor give the appearance of having such impact have been excluded.
- In determining economic impacts on animal feeding operations, only cattle and swine feeding operations were considered. This approach was taken because:
 - * Implementation of the current Chapter 65 rules has shown that a very high percentage (commonly over 90 percent) of the affected operations contain either cattle or swine; and
 - * The data required to conduct a reasonably accurate assessment for other animal species is generally not available.
- Estimates of the number of operations affected by a particular amendment were developed by using a combination of data from the Iowa Crop and Livestock Reporting Service and experience gained in administering the DNR's animal waste control program. In addition, all estimates were reviewed with Stewart Melvin, Extension Agricultural Engineer with Iowa State University.
- The assessment of impacts on animal feeding operations assumes all livestock operations affected by a particular rule or rule amendment would comply with its requirements. As a result, the economic impact estimates made represent the maximum level of impact that could occur. In reality, this level of impact is not likely since total compliance will probably never be achieved.
- Although the amendments will impact both existing animal feeding operations and operations which may be established in future years, the assessment has been limited to only determining the impacts of the amendments on existing operations.
- The assessment of impacts on animal feeding operations considered the impact of individual amendments, while the assessment of impacts on the DNR only considered the collective impact of all the amendments. This approach was used since the impacts of individual amendments on livestock operations could generally be identified, while the impacts on the DNR were attributable more to the total package of rule amendments than to individual amendments.

II. ASSESSMENT OF RULE AMENDMENTS HAVING AN ECONOMIC IMPACT ON ANIMAL FEEDING OPERATIONS: The following sections present information on those rule amendments which were found to have an economic impact on animal feeding operations. The information given identifies the rule sections being amended, describes the amendment and its impacts, and estimates the number of operations affected and the total economic impacts on these operations.

A. Amendment #1:

1. Rule Section(s) Being Amended:

- 65.3(3) and 65.3(4) of current rules
- New wording found in 65.3(2) of ARC 7189

2. Description of Amendment: Amendment combines operation permit application requirements for open feedlots discharging wastes through a man-made drainage system (65.3(3) of current rules), and increases from 100 to 300 animal units the minimum capacity a feedlot must have before permit application is required.
3. Impacts of Amendment: This amendment has the following impacts:
 - Simplifies the rules by combining similar requirements;
 - Makes this rule consistent with federal rules adopted by the US EPA;
 - Exempts from the need to obtain construction or operation permits feedlots having between 100 to 300 animal unit capacity and discharging wastes into a man-made drainage system or into a stream traversing the feedlot; and,
 - Exempts these same feedlots from the minimum waste control requirements of 65.2(2). Under the amendment, these feedlots will only have to remove settleable solids (as required by rule 65.2(1)), unless the DNR determines additional control is needed to protect water quality.
4. Effects of Amendment on Livestock Operations:
 - a) It is estimated that about 150 open cattle feedlots will be affected by this amendment, with most of these affected as a result of having a stream running through the lot area. Also, it is estimated about twice this number of swine feedlots (300 swine feedlots) will be affected, with the majority affected due to waste discharges entering a tile line or other man-made drainage system. This, it is estimated a total of 450 open feedlots will be directly affected by this amendment.
 - b) Economic Impacts on Livestock Operations: The potential economic impacts of this amendment are attributable both to its action in exempting certain feedlots from the need to obtain construction and operation permits and to the reduced level of waste control being required of these feedlots. These economic impacts are estimated as follows:
 - 1) Exemption From Permit Requirements: Although no fee is charged for issuing construction and operation permits to feedlots, a feedlot operator will incur certain costs in obtaining permits. While these costs may vary considerably, average costs can be estimated by considering the actions normally required to obtain such permits.

Since detailed engineering plans are required as part of an application for a construction permit, a feedlot operator's costs for developing these plans may be included as part of the construction permit costs. As most feedlot waste control systems are designed (at no charge) by the US Soil Conservation Service, the feedlot operator normally does not have to pay for the engineering costs of developing this plan. Even so, an operator incurs some costs in obtaining design assistance, assisting in site surveys and development of design plans, completing and submitting permit applications, and similar activities. For purposes of this assessment, these costs are being included in the construction permit costs and are assumed to average \$100 per feedlot.

Operation permits issued to feedlots normally do not include specific monitoring or record keeping requirements. As a consequence, the primary costs attributable to the operation permit are those associated with obtaining it and becoming familiar with its requirements. Since construction and operation permits are commonly issued simultaneously and most of the information needed for the operation permit is already available in the construction permit application, the added costs for obtaining the operation permit are normally minimal. For purposes of this assessment, these costs are estimated to average \$50 per feedlot.

By exempting an estimated 450 open feedlots from the need to obtain DNR construction and operation permits, this amendment eliminates all permit costs for these feedlots. Assuming these costs average \$150 per feedlot (\$100 for the construction permit, \$50 for operation permit), a total cost savings of \$67,500 will occur.

- 2) Reduction in Level of Required Waste Control:
Rules 65.2(1) and 65.2(2) establish minimum waste control requirements for open feedlots. Rule 65.2(1) applies to all animal feeding operations and requires that, as a minimum, settleable solids be removed from the wastes prior to discharge to a water of the state. Rule 65.2(2) applies only to open feedlots having to obtain a DNR operation permit, and requires control of all waste flows which result from storms less than or equal to the 25-year 24-hour precipitation event.

As a result of being exempted from the operation permit requirements, the affected feedlots are

also exempted from the waste control requirements of rule 65.2(2). As a consequence, these feedlots will not have to control runoff to the level of the 25-year 24-hour storm, but instead will only have to comply with the settleable solids removal criteria (unless the DNR determines a greater level of control is needed to protect water quality).

Since only removing settleable solids normally costs less than does controlling runoff to the 25-year 24-hour storm level, adopting this amendment will reduce the waste control costs for affected feedlots. The amount of cost reduction will vary considerably since some feedlots would only be able to comply with the current rules by constructing a complete runoff control system while others could use simpler and less expensive alternatives.

For purposes of this assessment, it is assumed adopting this amendment will reduce waste control costs for affected feedlots as follows:

- For 150 feedlots, the initial investment costs will be reduced by \$4,000 per feedlot and the annual feedlot operating and ownership costs (interest, depreciation, taxes, etc.) will be reduced by \$1,200 -- assumes these feedlots could only comply with the current rules by constructing and operating a complete runoff control system; and
- For 300 feedlots, initial investment costs will be reduced by \$1,000 per feedlot and annual operating and ownership costs will be reduced by \$300 -- assumes these feedlots can use relatively simple and low-cost waste control solutions (such as increasing the frequency of waste disposal, moving lots or fencing animals away from streams, and eliminating connections to tile systems).

Based on these assumptions, the total economic impacts of this amendment on the waste control costs for open feedlots is estimated to be:

- Will reduce the initial capital costs of constructing waste control facilities for 450 feedlots by an average of \$2,000 per feedlot, of \$900,000; and
- Will reduce the annual operating and ownership costs for these same 450 feedlots by an average of \$600 per feedlot, for a total

reduction in annual operating and ownership costs of \$270,000.

B. Amendment #2:

1. Rule Section(s) Being Amended:

- 65.3(2)(a) of current rules
- New wording found in 65.6(1)(b)(1) of ARC 7189

2. Description of Amendment: Amendment exempts confinement feeding operations using anaerobic lagoons from operation permit requirements, adds wording to continue to require anaerobic lagoon facilities to obtain construction permits, and deletes animal capacity as a factor in determining if construction permits are required.

3. Impacts of Amendment: This amendment has the following impacts:

- Eliminates the requirement that confinement feeding operations using anaerobic lagoons obtain operation permits;
- Maintains the current rule requirement that confinement operations using anaerobic lagoons obtain construction permits; and
- Drops animal capacity as a factor in determining the need for permits -- deleting animal capacity makes these rules compatible with DNR's Chapter 22 air quality rules, which require all anaerobic lagoon facilities to obtain a construction permit (regardless of size).

4. Effects of Amendment on Livestock Operations:

- a) Number of Operations Affected: Although no complete inventory exists on the number of confinement feeding operations in Iowa using anaerobic lagoons, the number is relatively small and estimated to average about five per county (total of 500 operations). Since this amendment covers all anaerobic lagoon facilities, all 500 operations will be affected.
- b) Economic Impacts on Livestock Operations: The economic impacts of this amendment are the result of its action in exempting anaerobic lagoon facilities from the need to obtain operation permits. Assuming that eliminating the operation permit will produce the same savings for anaerobic lagoon facilities as for open feedlots (\$50 per operation), the estimated overall economic impact is to reduce total costs for livestock producers with anaerobic lagoons with a five-year life, this savings would occur over a five-year period.

Note: The current Chapter 65 rules only require permits for anaerobic lagoon facilities of over 200 animal unit capacity, while the amendment requires all facilities to obtain construction permits. Although this difference gives the impression that the amended rules increase the regulatory requirements for smaller anaerobic lagoon facilities, this is not the case. Deleting the animal capacity factor simply makes the anaerobic lagoon provisions of the Chapter 65 rules the same as those already contained in DNR's Chapter 22 air quality rules, which require all anaerobic lagoon facilities to obtain construction permits (regardless of facility size).

C. Amendment #3:

1. Rule Section(s) Being Amended:

- 65.3(2)(b) of current rules
- New wording found in 65.6(1)(b)(2) of ARC 7189

2. Description of Amendment: Amendment eliminates the requirement that confinement feeding operations using earthen waste storage structures (other than anaerobic lagoons) obtain operation permits and adds wording that continues to require these operations to obtain construction permits if their capacity exceeds 200 animal units.

3. Impacts of Amendment: This amendment has the following impacts:

- Exempts confinement feeding operations using earthen waste storage structures from the need to obtain operation permits; and
- Maintains the current requirement that these operations obtain a construction permit if their capacity exceeds 200 animal units.

4. Effects of Amendment on Livestock Operations:

- a) Number of Operations Affected: The number of over 200 animal unit capacity confinement feeding operations using earthen waste storage structures (other than anaerobic lagoons) is small and estimated to average about two per county (total of 200 operations). The majority of these are dairy cattle or swine facilities, although some beef cattle and poultry operations also use earthen waste storage structures. The amendment will impact all of these operations.
- b) Economic Impact on Livestock Operations: The economic impact of this amendment is due to its action in exempting these livestock operations from the need to obtain operation permits. Assuming eliminating operation permits will produce the same cost savings for

these operations as for open feedlots (\$50 per permit), the estimated overall economic impact is to reduce total costs for affected livestock producers by \$10,000. Since operation permits are normally issued with a five-year life, this savings would occur over a five-year period.

D. Amendment #4:

1. Rule Section(s) Being Amended:

- 65.3(2)(b) of current rules
- New wording found in 65.6(1)(b)(3) of ARC 7189

2. Description of Amendment: Amendment exempts most confinement feeding operations using formed waste storage tanks from the need to obtain construction and operation permits and adds wording to retain the construction permit requirement for those operations which have over 2,000 animal unit capacity.

3. Impacts of Amendment: This amendment has the following impacts:

- Exempts all livestock operations using formed waste storage tanks from the need to obtain operation permits;
- Exempts those operations using formed waste storage tanks and below 2,000 animal unit capacity from the need to obtain construction permits; and
- Continues to require construction permits for operations using formed waste storage tanks if their capacity exceeds 2,000 animal units.

4. Effects of Amendment on Livestock Operations:

a) Number of Operations Affected: It is estimated about 500 confinement cattle and swine feeding operations in Iowa use formed waste storage tanks and have a capacity in the 1,000 to 2,000 animal unit range, and an additional 50 operations have a capacity exceeding 2,000 animal units. All of these operations will be affected by the amendment.

b) Economic Impact on Livestock Operations: Since the amendment's impacts on operations in the 1,000 to 2,000 animal unit capacity range are different than its impacts on operations exceeding 2,000 animal unit capacity, this assessment will treat each category separately. The economic impacts on each category are estimated as follows:

1) Impact on 1,000 to 2,000 Animal Unit Capacity Operations: The economic impacts of this amendment on operations in the 1,000 to 2,000 animal unit capacity category are due to its

action in exempting these operations from the need to obtain either construction or operation permits. Assuming eliminating the construction and operation permits will produce the same savings for these operations as for open feedlots (\$100 for a construction permit, \$50 for an operation permit), the estimated overall impact is to reduce total costs for the affected livestock operations by \$75,000 (\$50,000 for construction permits, \$25,000 for operation permits).

Assuming construction permits would have been issued to those operations over a ten-year period, the estimated \$50,000 savings would occur over this same period. Similarly, the \$25,000 savings attributed to not having to obtain operation permits would occur over a five-year period, since these permits normally are issued with a five-year life.

- 2) Impact on Over 2,000 Animal Unit Capacity Operations: Although the amendment exempts forced tank confinement operations with over 2,000 animal unit capacity from the need to obtain operation permits, these facilities would still have to obtain construction permits. As a result, the economic impacts of the amendment on these facilities are due entirely to its action in exempting them from the need to obtain operation permits.

Assuming eliminating operation permits will have the same economic impact on these operations as for open feedlots (\$50 per permit), the estimated overall economic impact is to reduce the total costs for affected livestock operations by \$2,500. Since operation permits are normally issued with a five-year life, this savings would occur over a five-year period.

III. ASSESSMENT OF RULE AMENDMENTS APPEARING TO HAVE AN ECONOMIC IMPACT ON ANIMAL FEEDING OPERATIONS BUT ASSESSED AS HAVING NO IMPACT

The following sections present information on those rule amendments which appear to have an economic impact on animal feeding operations but, upon assessment, have been found to have no impact. The information given identifies the rule sections being amended, describes the amendments and their effects, and explains why no economic impact occurs.

A. Amendment #1:

1. Rule Section(s) Being Amended:

- 65.3(1)(c) of current rules
 - Not included in ARC 7189
2. Description of Amendment: Amendment totally deletes rule 65.3(1)(c), which has commonly been referred to as the "two-foot-per-head" permit application criteria.
 3. Impacts of Amendment: This amendment has the following impacts:
 - Deletes in its entirety rule 65.3(1)(c); and
 - Makes the rules consistent with state law -- legislative action voiding this rule became effective July 1, 1986.
 4. Effects of Amendment on Livestock Operations: As a result of the legislative action voiding rule 65.3(1)(c), feedlots affected by this rule no longer have to obtain construction and operation permits. In addition, these same feedlots no longer have to control runoff from their feedlot areas to the level of the 25-year 24-hour storm. Instead, they now only have to remove settleable solids from their wastes prior to discharge, unless the DNR determines a greater level of waste control is required to protect water quality.

Although significant economic impacts are associated with elimination of rule 65.3(1)(c), these impacts occurred on July 1, 1986 when the legislative action voiding this rule became effective. As a consequence, the only effect this amendment now has is to make the Chapter 65 rules conform to state law. As such, the amendment has no economic impact on livestock operations.

B. Amendment #2:

1. Rule Section(s) Being Amended:
 - 65.2(2) of current rules
 - New wording found in 65.2(2) and Appendix A of ARC 7189
2. Description of Amendment: Amendment retains the current requirement that open feedlots which must obtain operation permits must also control feedlot runoff to the level of the 25-year 24-hour storm, and establishes several waste control alternatives that feedlots may use to provide this level of waste control.
3. Impacts of Amendment: This amendment has the following impacts:
 - Retains the current minimum waste control requirements for open feedlots which are required to obtain operation permits; and

- Establishes minimum design and operation requirements for several waste control systems which, if properly constructed and operated, will provide the required level of waste control.
4. Effects of Amendment on Livestock Operations: Under the current Chapter 65 rules, feedlots required to comply with the waste control requirements of rule 65.2(2) must:
- Construct a waste control system which has sufficient capacity to retain all runoff from the 25-year 24-hour storm; and
 - Remove and land apply the collected runoff whenever the available (unused) storage capacity of the control system falls below that required to store runoff from the 25-year 24-hour storm, provided weather and soil conditions are suitable for land disposal.

Many feedlot operators have found it difficult to operate a waste control system according to the requirements noted above, since waste disposal is frequently required at times when other farming operations (such as crop planting or harvesting) must also be completed or when suitable disposal areas are not readily available. In some cases, feedlot operators facing these difficulties have failed to dispose of wastes as required, resulting in waste discharges to state waters.

To minimize the problems associated with controlling feedlot runoff to the level of the 25-year 24-hour storm, the DNR is proposing to allow feedlots to use any of the waste control systems outlined in Appendix A. In addition to the four waste control systems included in Appendix A of ARC 7189, the DNR has developed and is proposing to adopt a fifth system.

Waste control system #4 (of Appendix A) is essentially the system feedlots now use to comply with the Chapter 65 rules. The other systems, all required that additional waste storage capacity be provided in the feedlot runoff control system, but in turn allow the feedlot operator greater flexibility in conducting waste disposal operations. For example, System #1 requires adequate capacity be provided for the average runoff expected to occur from the feedlot over a twelve-month period, but in turn allows waste disposal to be conducted as infrequently as once a year. While these systems give the feedlot the option of limiting disposal to specific disposal periods, they also allow the feedlot to land apply wastes at any time that weather and field conditions permit disposal to be conducted without causing water pollution.

Other proposed rule amendments make these waste control systems applicable primarily to open feedlots of over 1,000 animal unit capacity and to feedlots having from 300 to 1,000

animal unit capacity which discharge wastes through a man-made drainage system or discharge to a watercourse that traverses the feedlot. Inventory data indicates Iowa had about 300 cattle feeding operations of over 1,000 animal unit capacity in 1985, with almost all of these being open feedlots. Although similar data is not available on open feedlot swine operations of over 1,000 animal unit capacity, the number is estimated at 100 or less. It is also estimated there are about 200 cattle and swine feedlots in the 300 to 1,000 animal unit capacity range which discharge wastes into a man-made drainage system or into a watercourse traversing the feedlot. These estimates indicate these waste control systems will be most applicable to about 600 cattle and swine feedlots.

Since waste control system costs normally increase as waste storage capacity increases, the initial capital investment required will normally be greater if any waste control system other than system #4 is used. However, in selecting a system other than system #4, a feedlot operator presumably has determined the higher initial capital investment is justified by the benefits gained in conducting waste disposal operations. These benefits may include:

- Being able to concentrate on crop planting or harvesting operations during spring and fall seasons, and increased crop yields and profits due to being able to complete cropping operations in a timely manner;
- Maximizing the fertilizer and irrigation water values obtained from waste applications by being able to schedule waste disposal operations to coincide with crop growth needs; and
- Reduced disposal costs, as a result of being able to utilize contract operators for waste disposal or by being able to share the costs of disposal equipment among several feedlots (may be particularly applicable to the purchase of irrigation equipment used to dispose of feedlot runoff).

Since this amendment does not require feedlots to spend more money than required under the current rules and feedlots choosing a waste control system other than that currently used (system #4) may receive economic benefits which exceed their increased initial capital investment costs, the net economic impacts of this amendment are considered to be neutral or positive.

C. Amendment #3:

1. Rule Section(s) Being Amended:

- No wording in current rules affected
- New wording found in 65.1 and 65.2(8) of ARC 7189

2. Description of Amendment: Amendment adds definition of "discontinued animal feeding operation" and establishes requirement that wastes be removed from discontinued operations and land applied as soon as practical, and in no case more than six months, after the operation is closed.
3. Impacts of Amendment: This amendment has the following impacts:
 - Incorporates into the rules the DNR's policy regarding disposal of accumulated wastes when an animal feeding operation is closed; and
 - By incorporating this policy into the rules, makes it clear that a livestock producer's responsibilities for waste disposal do not end simply because the operation has closed.
4. Effects of Amendment on Livestock Operations: The current Chapter 65 rules do not specifically address the need for disposing of accumulated wastes after an operation is closed. However, this issue has been addressed by the DNR as a result of dealing with several operations which closed without first disposing of accumulated wastes. As a result, the DNR is requiring all operations which close to remove accumulated wastes and dispose of it by land application as soon as practical after closing.

Since the current Chapter 65 rules already require all animal feeding operations to remove and dispose of all wastes by land application, adding wording regarding the need for such disposal upon closure of an operation will not impose additional requirements upon the operation. As a result, this amendment will have no economic impact on livestock operations.

D. Amendment #4:

1. Rule Section(s) Being Amended:
 - 65.2(3) of current rules
 - New wording found in 65.2(3)(b) and 65.2(3)(c) of ARC 7189
2. Description of Amendment: Amendment adds wording pointing out the need to remove and dispose of wastes from storage facilities before overflow or discharge conditions exist, and adds specific language requiring wastes be removed from earthen waste storage structures as needed to maintain a minimum of two (2) feet of freeboard in the structure.
3. Impacts of Amendment: This amendment has the following impacts:

- Makes rules more understandable by clearly stating that waste disposal must begin before waste levels reach the point where waste overflow or discharge is imminent;
- Requires that factors which may prevent disposal (such as periods of inclement weather or lack of suitable disposal areas) be considered in determining need to conduct waste disposal; and
- Adds a minimum freeboard requirement for earthen waste storage structures.

4. Effects of Amendment on Livestock Operations: Both the current Chapter 65 rules and these rule amendments require confinement feeding operations to retain all wastes produced between periods of waste disposal. Since inclement weather conditions or other factors often prevent land disposal during certain periods of the year, waste discharges during these periods can only be avoided if sufficient wastes have been disposed of prior to these periods to ensure adequate capacity exists to store all wastes produced during these periods.

The primary effects of this amendment are to make it clear that waste disposal must be initiated before waste levels reach the point where overflow or discharge is imminent, and to require that inclement weather or other factors which may prevent disposal be considered in determining disposal needs.

A secondary effect of the amendment is to add to the rules the requirement for maintaining a minimum of two feet of freeboard in earthen waste storage structures. Although minimum freeboard requirements have not previously been stated in the Chapter 65 rules, operation permits issued to livestock operations using earthen waste storage structures have included minimum freeboard requirements. Since other proposed amendments will eliminate operation permits for these facilities, the net impact of the amendment is to incorporate into the rules the freeboard requirements now being required through operation permits.

Since this amendment only clarifies existing waste control requirements for confinement feeding operations and adds to the rules minimum freeboard requirements which previously were required in operation permits, the amendment does not impose additional waste control requirements on livestock operations. As such, the amendment is not considered to have an economic impact on livestock operations.

E. Amendment #5:

1. Rule Section(s) Being Amended:

- 65.5(5) of current rules
- New wording found in 65.6(5) of ARC 7189

2. Description of Amendment: Amendment adds the anaerobic lagoon separation distance requirements contained in Iowa Code section 455B.133 and the design criteria contained in the DNR's Chapter 22 and 23 rules as plan review criteria.
3. Impacts of Amendment: This amendment has the following impacts:
 - Adds as criteria used in reviewing plans for anaerobic lagoon facilities the separation distance requirements given in Iowa Code section 455B.133 and the design criteria found in DNR's Chapter 22 and 23 rules; and
 - By referencing these Code and rule sections, informs livestock producers that specific location and design requirements for anaerobic lagoons exist in the referenced documents.
4. Effects of Amendment on Livestock Operations: The current Chapter 65 rules do not list either Iowa Code section 455B.133 or the DNR's Chapter 22 and 23 rules as plan review criteria. However, since these have been adopted as part of Iowa law, the DNR has routinely considered both in its review of anaerobic lagoon facility plans.

Since this amendment merely incorporates into Chapter 65 minimum separation distance and design criteria found in other sections of Iowa law, this amendment is not considered to have an economic impact on livestock operations.

F. Amendment #6:

1. Rule Section(s) Being Amended:
 - 65.2(6) of current rules and land disposal guidelines attached to the rules
 - 65.2(7) and land disposal guidelines presented in Appendix B of ARC 6178
2. Description of Amendment: Amendment proposes a number of wording changes in the land disposal guidelines. Except for the deletion of all references relating to odor control, the proposed changes are all intended to clarify the guidelines and make them more understandable.
3. Impacts of Amendment: This amendment has the following impacts:
 - Retains the general waste disposal requirements of the current rules and the relationship between these requirements and the land disposal guidelines;
 - Makes a number of wording changes in the guidelines to clarify their contents and make them more understandable; and

- deletes all odor control recommendations from the guidelines.

4. Effects of Amendment on Livestock Operations: Waste disposal from livestock operations is addressed in section 65.2(6) of the current rules. This rule requires that wastes be disposed of by land application and that land application be done in a manner which does not cause surface or ground water pollution. As such, the rules allow livestock operations to use a variety of land disposal practices, since the only restriction imposed is that the disposal methods used must not cause surface or ground water pollution.

To assist livestock producers determine which land disposal practices have minimum water pollution potential, land disposal guidelines have been developed. These guidelines, referenced in and appended to the rules, cover a variety of land disposal issues including: nutrient application rates, disposal on frozen or snow-covered land, disposal on flood-plains or near water bodies, and disposal on steeply sloping land.

The rules also provide that waste disposal conducted according to the land disposal guidelines is automatically considered to comply with the requirement that disposal not cause surface or ground water pollution. Although this provision provides some incentive for using the land disposal guidelines, it does not restrict use of disposal practices which do not conform to the guidelines. As stated earlier, the only restriction placed on land disposal is that it must not cause surface or ground water pollution. As a result, even practices, such as waste disposal on frozen ground, a feedlot operator using these practices will not be in violation of the Chapter 65 rules unless surface or ground water pollution occurs.

The ARC 7189 rule amendments do not propose to change either the basic waste disposal requirements of the rules or the relationship between the rules and the land disposal guidelines. Instead, the amendments only clarify the specific waste disposal practice recommendations contained in the guidelines. Of the wording changes proposed, three are considered significant and deserve special mention. These are:

- Under the heading "Waste Application Rate -- Nitrogen," a statement has been added to make it clear the recommendations are intended to apply to the total amount of nitrogen applied from all sources, rather than simply to the nitrogen applied as animal wastes;
- In this same section, wording has been added to make it clear the basic recommendation is that annual nitrogen applications should not exceed the annual nitrogen use requirements of the crops grown; and

- All recommendations on controlling odors during land disposal have been deleted -- these were deleted since the DNR does not regulate odors and does not want its regulations to give the impression of doing so.

Since the proposed amendments do not significantly modify the current waste disposal requirements applying to livestock operations, these amendments are not considered to have an economic impact on livestock operations.

IV. ASSESSMENT OF ECONOMIC IMPACT OF RULE AMENDMENTS ON THE IOWA DEPARTMENT OF NATURAL RESOURCES

Although the rule amendments proposed in ARC 7189 will have some impacts on the DNR's animal waste control program, the amendments are not expected to have a significant economic impact on the DNR. Presented below is a discussion of the DNR's current animal waste control program activities, the major impacts the amendments are expected to have on these activities, and the expected economic impacts on the DNR.

During the early to mid-1970s, considerable effort was devoted to implementing the animal waste control program, with much of this effort focused on locating and issuing permits for livestock operations which had not complied with the rules. However, during the late 1970s, the need to address other environmental issues forced the department to substantially reduce its animal waste control program activities. As a result, in recent years the department's animal waste control program has been operated at essentially a maintenance level, with less than one staff year of effort devoted to the program in 1985. Current program activities are limited to:

- Conducting field investigations and requiring control measures at existing livestock facilities if complaints of water pollution are received;
- Reviewing plans and issuing permits to new or expanding livestock operations which voluntarily submit permit applications;
- Renewing operation permits for existing livestock operations as current permits expire; and
- Certifying pollution control facilities for property tax exemption purposes as certification requests are received.

The major impacts the proposed rule amendments will have on the DNR's animal waste control program are to significantly reduce the number of livestock operations which must obtain DNR permits and to require the DNR to conduct certain rule implementation activities. These impacts are discussed below:

A. Impacts Due to Reduction in Number of Operations Needing DNR Permits:

The proposed rule amendments will substantially reduce the number of livestock operations required to obtain construction and/or operation permits. If sufficient staffing were being devoted to

the animal waste control program to fully implement it, this reduction in number of permits would allow the DNR to reduce its staff time devoted to permit related activities (such as reviewing plans and issuing permits, tracking compliance schedules, and renewing permits). However, since the level of staffing presently devoted to this program is far below that required for full implementation and very little staff time is currently expended in issuing permits, the reduction in number of operations requiring permits is unlikely to have any impact on the time DNR staff spends on permit related functions. As a consequence, the DNR is not expected to experience any economic impacts as a result of these amendments.

B. Impacts Due to Activities Required to Implement Revised Rules:

Since the proposed rule amendments were developed to fit within the general framework of the DNR's current animal waste control program, major modifications of the program will not be required to implement the revised rules. Even so, the DNR will need to devote some additional staff time during the next six to twelve months to activities conducted solely for the purpose of implementing the rule amendments.

As a minimum, implementing the amended Chapter 65 rules will require that time be devoted to activities such as printing and distributing the amended rules, modifying the DNR's construction and operation permit application forms to reflect the rule amendments, and assisting the US Soil Conservation Service in modifying its animal waste control standards to incorporate the rule amendments.

In addition, the DNR should conduct some public information activities to make livestock producers aware of the rule amendments. These activities might include the development and distribution of brochures or other public information materials, presenting information on the revisions at public meetings, etc. To minimize the DNR staff time devoted to these activities, consideration should be given to conducting these activities in cooperation with other governmental agencies and/or livestock producer groups.

Although some additional DNR staff time will need to be devoted to these activities during the next twelve months, the amount of staffing required is not large (anticipated less than one-fourth staff year of effort will be required). Since this is a minimal amount of staff time and it does not represent a recurring staffing need, having to conduct these rule implementation activities will not have a significant economic impact on the DNR.

V. CONCLUSIONS:

The results of the economic impact assessment indicate the following conclusions can be made regarding the proposed amendments to the DNR's Chapter 65 "Animal Feeding Operations" rules:

- A. Most of the proposed amendments will have no economic impact on either animal feeding operations or the DNR.
- B. A small number of amendments were found to have an economic impact on animal feeding operations. In all cases, these amendments were determined to have a positive economic impact on the affected livestock operations (i.e., the amendments reduced the costs an operation would incur in complying with requirements of the Chapter 65 rules).
- C. In all instances where the amendments were found to impact animal feeding operations, the impacts were determined to be due either to a decrease in the number of operations required to obtain DNR construction and/or operation permits or to a reduction in the required level of waste control and a concurrent reduction in the costs of providing that level of control.
- D. The total economic impacts of the amendments on animal feeding operations are estimated to be:
 - As a result of eliminating operation permit requirements for 1,700 animal feeding operations, these operations will save \$85,000 (i.e., in the absence of these amendments, this amount would have been spent obtaining operation permits).
 - As a result of eliminating construction permit requirements for 250 animal feeding operations, these operations will save \$95,000 (i.e., in the absence of these amendments, this amount would have been spent obtaining construction permits).
 - As a result of having to comply with a reduced level of waste control, a total of 450 open feedlots will be able to reduce their capital expenditures for constructing waste control facilities by a total of \$900,000. In addition, the annual operation and ownership costs for these 450 feedlots will be reduced by \$270,000.
- E. Although the amendments will have some impact on the DNR's animal waste control program, no economic impacts on the DNR are expected to occur as a result of the amendments.

Mr. McAllister reviewed the economic impact statement in detail with the Commission.

Motion was made by Gary Priebe to approve the Economic Impact Statement on Revision of Chapter 65 — Animal Feeding Operation Rules. Seconded by Linda Appelgate. Motion carried unanimously.

PUBLIC PARTICIPATION

Dr. Roy Overton spoke expressing his personal concerns regarding groundwater quality. He stated that it is very dangerous when draining, directly into the aquifer system, 160 acres of soil which have had chemicals applied. He feels that no one really realized just how dangerous this was until recently when discovering hydrocarbons in the water. Until it is known how many

hydrocarbons can be in the water and still be safe we should keep them all out of the water. Dr. Overton stated that in the bill presented there was an exception for underground storage tanks up to 1,100 gallons. He feels this is not a good idea as these tanks are not required to be monitored and there could be thousands of them around unmonitored. Dr. Overton also spoke about a creek going through the Des Moines landfill which contains sludge. He had received a call from a citizen regarding this and told him that he would bring it to the DNR's attention.

Director Larry Wilson stated that Des Moines Metropolitan Landfill has a plan to circle the site, collect water and put it into a lagoon, but there is local opposition to the plan. There was a zoning hearing and the proposed plan was turned down due to the objection of area residents. The Des Moines Metropolitan Landfill Agency has appealed it.

STATUS OF AIR QUALITY NONATTAINMENT AREAS

Darrell McAllister, Bureau Chief, Environmental Protection Division, presented the following item.

Staff will review the status of the areas which have been designated nonattainment for meeting the National Ambient Air Quality Standards by EPA pursuant to Section 107 of the Clean Air Act. These areas are listed below:

Primary Nonattainment

Carbon Monoxide	-	Des Moines
Particulate	-	Des Moines
Particulate	-	Mason City

Secondary Nonattainment (Particulate)

Des Moines
Mason City
Cedar Rapids
Davenport
Waterloo
Clinton
Marshalltown
Muscatine
Council Bluffs
Fort Dodge
Sioux City

Discussion followed regarding EPA proposing new standards, history of cooperative efforts on monitoring, industrial emissions, implementation plan, particulate area and particulate standards.

REFERRALS TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code Section 22.7(4).

City of Willey, Iowa
Chico's Supper Club - Burr Oak
Foggenmiller, William et al. - Louisa County
Waterhouse, James and Berna - Washington County
King, James and Julia - Warren County

James and Berna Waterhouse

Mike Murphy briefed the Commission on the history of this case.

James Waterhouse addressed the Commission stating that he purchased his land in April of 1978, and cleared the land on the north side of the Skunk River in May and June of 1978. In 1979, he cleared the south side. He stated that there were no creek channels cut in the property during that time other than where the south oxbow protrudes down into the northern 14 acres of the property, at which point he did move the creek back 50 to 100 feet. He further stated that this was the only channel change made on the Dutch Creek floodplain. He added that in 1981 there was a severe flood that resulted in cutting out numerous terraces in the area and washed out dams which were in existence for 15 to 20 years. The overflow cut the channel down to where it was subject to flow with the creek raised at half bank, it would actually flow through the new channel. It took about three years following the flood to cut the channel to full depth and has not yet reached full width. Mr. Waterhouse showed a document in which the county received emergency funds for Dutch Creek. He displayed seven-year-old sapling samples which he stated were taken from the side of the creek he was accused of excavating.

Chairman Schlutz asked Mr. Waterhouse if he acquired a permit to do the work he did in 1978.

Mr. Waterhouse stated that he understood a person could cut off no more than one-fourth of an existing creek channel without a permit.

Jerry Combs, neighbor to Mr. Waterhouse, stated that he saw Mr. Waterhouse, in 1978, cut the channel as alleged by the Department and he presented a map showing where the channel change occurred.

Keith Uhl asked ^{why} by Mr. Combs waited until now to complain.

Mr. Combs stated that he complained previously to the County, but Mr. Waterhouse had an aunt who worked for the County at that time, and the complaint was dropped.

Chairman Schlutz asked if Mr. Waterhouse needed a permit when he did the work.

Randy Clark stated that the alleged channel change in 1978 would require a permit. Further discussion followed regarding plans for an after-the-fact permit, cost for such plans, and effects on the environment.

Motion was made by Wayne Gieselman for referral to the Attorney General's Office. Seconded by Linda Appelgate.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Timmerman, Appelgate, Hammitt, Gieselman, Mohr, Priebe, Siebenmann, Schlutz. "Nay" votes were cast by Commissioners Yeager and Uhl. Motion carried 8 to 2.

William Poggemiller

James Combs briefed the Commission on the history of this case.

William Poggemiller stated that he has an erosion problem and every time it rains, sand is washed out of the creek into his field. He stated he has pushed it back in twice. He added that he invited people out to look at his plans and asked if he needed a permit to dig the channel, then was told he would have to hire a surveyor. This would cost \$5,000 to \$7,000 and he stated that he could not afford that.

Charlotte Mohr asked Mr. Poggemiller who he contacted to get a permit. Mr. Poggemiller stated that he talked to a wildlife biologist, the Corps of Engineers, and wastewater treatment personnel.

John Ball, landowner down-creek from Mr. Poggemiller, spoke stating his concern that the stream straightening speeds up the water and erodes the banks next to his land. His land is not directly along the creek.

Dwight McIntyre, neighboring landowner to the south of Poggemiller's, stated that he has a ditch with tile outlets in it running down to the main channel of Smith's Creek. He is concerned that if Mr. Poggemiller is allowed to keep the creek as straightened, and the old channel of Smith Creek silts in, he will not have anywhere to go with drainage.

Keith Uhl asked Mr. McIntyre if he observed the channel excavation taking place. Mr. McIntyre stated that he called the Department on Friday, January 9, 1987 when Mr. Poggemiller started the work and they said that if any work was done between Friday and Monday to call them the first thing Monday morning. He stated that he called the Department on Monday, January 12 and the work continued for another week and a half.

Randy Clark stated that, after receiving Mr. McIntyre's complaint, the Poggemiller's were notified by telephone on January 9 to stop any channel change work they were doing. This was followed by a certified letter to the Poggemiller's on January 13 notifying them to stop any unauthorized channel work. Mr. Clark further stated that Jack Riessen notified Legal on Friday, January 9 that a channel change had taken place and understood from talking to the people that the work was about completed. Based upon that information, the decision for a call and a certified letter was made. The Department acted upon telephone information.

Keith Uhl stated that, if this is so important to the Department, he wondered why a field representative did not go and inspect or the Department did not request injunctive relief.

Mr. Clark explained that field office staff did inspect the site as soon as possible.

Discussion followed regarding possible penalty, injunctive relief, and required permits.

Robert Schlutz stated that the issue is that the work was done without a permit.

Keith Uhl stated that he agrees but feels the Commission should also suggest to the Attorney General what the proposed settlement will be, due to possible inaction of the staff to attempt to obtain the injunctive relief which could have stopped the construction immediately.

Richard Timmerman stated that his concern is that the situation be clarified and taken care of environmentally, rather than getting hung up on dollars and cents.

Motion was made by Keith Uhl to approve referral subject to the inclusion in Item V.B(4) mitigating factors, that the Attorney General investigate what steps, if any, the staff of the Department could have taken to attempt to obtain injunctive relief to stop the stream straightening. Seconded by Wayne Gieselman.

Clark Yeager asked if the motion limits the days for the penalty.

Keith Uhl replied that the Attorney General and his staff has the judgment to take the sense of the Commission's resolution to heart and factor the amount of penalty down so it is acceptable.

Richard Timmerman stated that he does not agree with putting a mitigating circumstance in a motion, as it will be setting a precedent for judgment calls in every referral to come about in the future.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Appelgate, Yeager, Hammitt, Uhl, Gieselman, Mohr and Priebe. "Nay" votes were cast by Commissioners Timmerman, Siebermann and Schlutz. Motion carried 7 to 3.

James and Julia King

James Combs briefed the Commission on the history of this case.

Raymond A. Schneider, farm manager for Mr. and Mrs. King stated that, to his knowledge, the channel change came about by the natural overflow of Otter Creek located in Lucas and southern Warren Counties. He stated that he has met with Dave Allen of the Department, and had appealed the administrative order on January 5. Mr. Allen informed him that the appeal period was over at that time. Mr. Schneider has since contacted Mr. Allen and told him that if the situation could not be rectified any way other than filling up the channel, that they would do that to rectify the situation. Mr. Schneider stated that he submitted a plan to Mr. Jack Riessen on March 2, and that Mr. Allen sent him a letter last Friday notifying him that the plan was inadequate. He stated that he visited with Mr. Allen and assured him that he

will file a new plan today to comply with the administrative order, and the work will be done by May 15. Mr. Schneider stated that he has dated aerial photos which show in 1980 where this erosion had started. He added that in a later meeting with Mr. Dave Allen he was informed that it was done by mechanical means.

Keith Uhl asked if Mr. Schneider or any of his agents did any floodplain construction in this area. Mr. Schneider replied that they did not.

Keith Uhl asked Randy Clark what facts were used to determine this case as a referral to the Attorney General.

Mr. Clark responded that a field inspection by Mr. Dave Allen and a review of photographs taken during the inspection by Mr. Jack Riessen led to the conclusion that the channel was not the shape of a natural channel cut. It was not in a location that a natural channel would ordinarily erode; therefore, based upon evidence the Department had and on expert opinion, it did not appear to be a natural cut.

Mr. Clark stated that there are three different property owners involved. There is a channel change on the most upstream property. The next property is owned by the Kings, and there are pilot channels on their property. One of the pilot channels straddles the King property and the downstream property of the Heaberlins. Three orders were issued, one to the channel change landowner, one to the Kings, and one to the Heaberlins. The Heaberlins appealed theirs in time and are involved in a contested case proceeding. Mr. Clark stated that the Heaberlin's attorney presented him with a statement that blasting was done on the King property. He stated this is evidence the Department did not have when the order was issued, but had just been received today in the presence of the Commission.

Discussion followed regarding the presentation of this case by staff. It was indicated that the Commission would like documentation of statements and photos in litigation reports, along with visual presentations and a detailed verbal history of each report.

Director Wilson stated that staff people are fully informed and they are presenting full information to the Commission. Overhead projectors, transparencies and slides can be presented at any time and will be brought in at future meetings. The staff attorneys are entirely capable of representing the field view on each of these individual matters.

Motion was made by Richard Timmerman to table this referral until the April meeting pending a map and other data being provided. Seconded by Charlotte Mohr.

Mr. Schneider stated that the statement regarding dynamiting on the King's farm was on another matter, in which the DNR was involved, and took place on another farm owned by the Kings.

Jim Fowler, lawyer representing Francis Heaberlin, stated that he would like to address the Commission before they table this referral due to a hearing coming up for Mr. Heaberlin next week. Mr. Fowler stated that there is an illegal excavation that involves three separate properties and instead of

proceeding as a whole, the Department chose to bring three separate proceedings. He stated that his client is appealing because he did not have anything to do with it. The other two did not appeal. He stated that he has some witnesses and what bothers him is that this is being dealt with individually. Since the King case is being tabled, Mr. Fowler requested that the hearing for Mr. Heaberlin be deferred until a decision is made about the Kings.

Randy Clark explained why this was handled independently and stated that there would be no problem with deferring the Heaberlin hearing until the King referral is decided.

Chairman Schlutz requested a roll call vote on Commissioner Timmerman's motion to table the referral for James and Julia King. "Aye" votes were cast by Commissioners Timmerman, Yeager, Hammitt, Uhl, Gieselman, Mohr, Priebe, Siebermann and Schlutz. "Nay" vote was cast by Commissioner Appelgate. Motion carried 9 to 1.

Chico's Supper Club - Burr Oak

James Combs briefed the Commission on the history of this case.

Motion was made by Keith Uhl for referral to the Attorney General's Office. Seconded by Wayne Gieselman. Motion carried unanimously.

City of Willey

James Combs stated that this referral should be removed from the agenda due to problems with the Carroll post office. A certified letter was sent and last Friday staff learned that they had not received it. In talking to the post office, they advised us that they had a temporary letter carrier and there was no delivery of the certified mail.

LANDFILL GROUND WATER MONITORING RULES

Darrell McAllister, Bureau Chief, Environmental Protection Division, presented the following item.

A discussion will take place on the proposed groundwater monitoring rules for sanitary landfills. These rules will be submitted for approval of a notice of intended action at a later date.

Mr. McAllister distributed a copy of the proposed landfill groundwater monitoring rules. He stated that these rules are proposed in two sections, the first section states that wells be required at all sites; the second section covers more technical aspects, such as how monitoring wells must be constructed. Mr. McAllister stated that this will be presented, for the Commission's approval next month, as a Notice of Intended Action so the rules can go to public hearing. The hearing will be sometime in June and the final rule will be brought back for approval later in the summer. Mr. McAllister explained the proposed rules in detail.

Discussion followed regarding monitoring and expenses for same.

Keith Uhl asked if there is any intent to bring in a subcommittee on landfills. Discussion followed regarding who should be on the subcommittee. Chairman Schlutz suggested that Mr. Mace, manager of the landfill at Fort Madison, be asked to serve on the subcommittee. Charlotte Mohr suggested that Cindy Turkle would be a good resource person. It was also suggested that a small group of professional/technical people be sought. Chairman Schlutz appointed Commissioners Siebenmann and Hammitt to serve on the subcommittee to study these rules.

LEGISLATIVE REPORT

James Combs presented the Commission with a written update on legislation. Mr. Combs explained in detail the present status of each bill. He stated that the only item not listed on the update was a subcommittee proposal to reduce the amount of the state construction grant funds. It mentioned \$1.38 million total with approximately \$700,000 going to construction grant funding and the other to Parks, Recreation and Preserves for capital expenditures at the parks. Discussion followed regarding Clean Water Act funds and construction grants funds.

Mr. Combs stated that all of the action on the groundwater bill is taking place in a bill that was drafted by the interim study committee. The bill has been split up into six different subcommittees. Many revisions are taking place, it seems to be revising faster than one can comment on it.

Discussion followed regarding the Commission's position on legislation.

ADDRESS ITEMS FOR NEXT MEETING

Update of testing on farm chemicals in shallow wells and public water supplies.

Update on small towns and how they are coming along with wastewater treatment plants.

Update on LaBounty at Charles City.

Hazardous waste siting update.

Memorandum of understanding supporting any efforts of the Director to obtain injunctive relief where appropriate.

Certified engineering plans on areas of noncompliance in wastewater areas.

Discussion was held regarding whether it would be appropriate for the Commission to endorse, by letter, Director Wilson's approval by the Senate as the Department's Director.

Motion was made by Linda Appelgate that the Commission send a letter to the legislature for endorsement of Larry Wilson's confirmation. Seconded by Charlotte Mohr.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Timmerman, Appelgate, Yeager, Hammitt, Uhl, Gieselman, Mohr,

Siebenmann and Schlutz. "Nay" vote was cast by Commissioner Priebe. Motion carried 9 to 1.

REPORT OF LOW LEVEL RADIOACTIVE COMPACT MEETING

Director Larry Wilson reported that he and Allan Stokes attended a meeting in Ohio regarding the Low Level Radioactive Waste Compact. It was at that meeting that the decision was made on which four states would be named as host states.

Management plan committee reports were given. There was discussion on how we address low level radioactive waste below regulatory concern. Also discussed was host state selection with multiple volunteers, and possibly a subcompact within a compact if two states would want to go together and form another type of deposit site.

The Administrative Committee met and heard from the executive director in the Commission regarding the contract status report. There was discussion regarding the Low Level Radioactive Waste Commission having contracted with a consulting firm to collect all the data and put it together for handouts. Following that discussion, there was a public involvement period.

The next morning there were Commission introductions from the seven states, followed by public comment, and approval of the agenda and minutes of a prior meeting. Executive Director and committees gave reports, then action was finally taken on selection of the four host states. The four states designated were Michigan, Minnesota, Ohio and Wisconsin. They have 90 days to decide whether or not they will participate.

DISCUSSION OF JOHN DEERE COMPANY LETTER REGARDING A WASTE MANAGEMENT PROPOSAL

Robert Schlutz stated that the Commission needs to look at the future in regards to reconstituting hazardous waste and possibly make it into usable matter. He suggested that maybe the Commission should be visiting with legislators about furthering this study and possibly get some money appropriated for advanced technology in taking care of the hazardous waste program.

Nancylee Siebenmann stated the Commission will have to look more to the public/private type of ventures in many different areas.

NEXT MEETING DATES

April 20-21, 1987

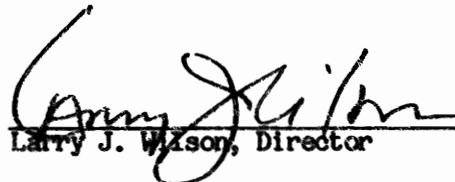
May 18-19, 1987

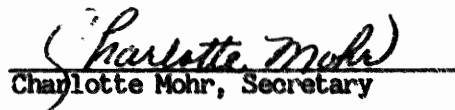
June 15-16, 1987

ADJOURNMENT

Motion was made by Richard Timmerman to adjourn the meeting. Seconded by Keith Uhl. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 3:30 p.m., Monday, March 16, 1987.


Larry J. Wilson, Director


Charlotte Mohr, Secretary

(EPC/3-87)

NAME Raymond H. Schneider
ADDRESS King Motors Co. 816 E. 1st St. St. Louis
REPRESENTING James C. King - King & Associates
SUBJECT: 17th. Order # 86-F.P.-3

Re King case.

542-0491

NAME Jerry Combs
ADDRESS RR1 Washington
REPRESENTING straightening a creek

SUBJECT:

this person wants to
speak about the
Waterhouse case. 1200 ft.

542-0491

542-0491

NAME Dwight McIntyre
ADDRESS McIntyre's Lane
REPRESENTING _____

SUBJECT: Smith's new channel
change

542-0491

NAME James H. Wallace
ADDRESS RT 1, Harts Co
REPRESENTING SELF
SUBJECT: clearing & flood damage

NAME John Bell John Elmer Bell
ADDRESS John Elmer Bell
REPRESENTING McIntyre's Lane

SUBJECT: Smith creek channel
change

542-0491

ADM-1-1-1
March 1986

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

March 16, 1987

Meeting Convenes at 9:00 a.m., 4th floor conference room.

Public Participation 10:30 a.m.

Appointments:

James and Berna Waterhouse 11:15 a.m.

William Poggemiller 11:45 a.m.

James C. King 12:15 p.m.

1. Approval of Agenda.
2. Approval of Minutes of February 17, 1987.
3. Regional Office 2 Lease. (Kuhn) Decision.
4. Air Monitoring Equipment Upgrading. (Kuhn) Decision.
5. Monthly Reports. (Stokes) Informational.
6. Economic Impact Statement on Revision of Chapter 65 Animal Feeding Operations Rules. (Stokes) Decision.
7. Update: Air Quality Non-attainment Areas. (Stokes) Informational.
8. Groundwater Monitoring at Landfills. (Stokes) Informational
9. Legislative Report. (J. Brown) Informational.
10. Referrals to the Attorney General's Office. (Combs) Decision.
11. ADDRESS ITEM FOR DEBATING
12. Report of Lowlevel Radioactive Waste Site (Stokes) Informational
13. Discussion of John Doe letter re: waste site cleanup and proposal

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April 20-21, 1987

May 18-19, 1987

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